



TX10110-AC

United States
Department of
Agriculture

CERTIFIED RECEIPT REQUESTED

Office of
Administrative
Law Judges

September 9, 2010

Hearing Clerk

Terranova Enterprises, Inc.
d.b.a. Animal Encounters, Inc.
Agent: Douglas Keith Terranova
6962 S. FM 148
Kaufman, Texas 75142

Douglas Keith Terranova
6962 S. FM 148
Kaufman, Texas 75142

Room 1031
South Building

1400 Independence
Avenue SW

Washington, DC
20250-9200

Will Ann Terranova
6962 S. FM 148
Kaufman, Texas 75142

Farin Fleming
6962 S. FM 148
Kaufman, Texas 75142

(202) 720-4443
(202) 720-9778 fax

Dear Respondents:

Subject: In re: Terranova Enterprises, Inc., a Texas corporation d.b.a. Animal Encounters, Inc.; Douglas Keith Terranova, an individual; Will Ann Terranova, an individual; Farin Fleming, an individual, Respondents - AWA Docket No. 10-0418

Enclosed is a copy of the Complaint, which has been filed with this office under the Animal Welfare Act.

Also enclosed is a copy of the rules of practice which govern the conduct of these proceedings. You should familiarize yourself with rules in that the comments which follow are not a substitute for their exact requirements.

The rules specify that you may represent yourself personally or by an attorney of record. Unless an attorney files an appearance in your behalf, it shall be presumed that you have elected to represent yourself personally. Most importantly, you have **20 days from the receipt of this letter to file with the Hearing Clerk an original and three copies of your written and signed answer to the complaint.**

In the event this proceeding does go to hearing, the hearing shall be formal in nature and will be held and the case decided by an Administrative Law Judge on the basis of exhibits received in evidence and sworn testimony subject to cross-examination.

You must notify us of any future address changes. Failure to do so may result in a judgment being entered against you without your knowledge. We also need your present and future telephone number.

Your answer, as well as any motions or requests that you may hereafter wish to file in this proceeding, should be submitted in quadruplicate to the Hearing Clerk, OALJ, Room 1031, South Building, United States Department of Agriculture, Washington, D.C. 20250-9200.

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

USDA
OALJ/OHC

SEP -7 PM 1:37

In re:

AWA Docket No. 10-0418

TERRANOVA ENTERPRISES, INC., a Texas
corporation doing business as ANIMAL
ENCOUNTERS, INC.; DOUGLAS KEITH
TERRANOVA, an individual; WILL ANN
TERRANOVA, an individual; FARIN
FLEMING, an individual,

Respondents,

COMPLAINT

There is reason to believe that the respondents named herein have willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.)(the "Act" or "AWA"), and the regulations issued pursuant thereto (9 C.F.R. § 1.1 et seq.)(the "Regulations"). Therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS"), issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. Respondent Terranova Enterprises, Inc. ("Terranova Enterprises"), is a Texas corporation (Number 159995901) doing business as "Animal Encounters, Inc.," whose registered agent for service of process respondent Douglas Keith Terranova. The address of the registered office of respondent Terranova Enterprises is 6962 S. FM 148, Kaufman, Texas 75142. On February 11, 2005, the Texas Secretary of State ordered the corporate charter of respondent Terranova Enterprises forfeited for failure to file a franchise tax return and/or to pay state franchise tax. The charter remained forfeited until respondent Terranova Enterprises sought reinstatement, on or about November 30, 2005. On July 25, 2008, the

Texas Secretary of State again ordered the corporate charter of respondent Terranova Enterprises forfeited, for noncompliance with the Texas Tax Code. The charter remained forfeited until on or about March 11, 2009, when respondent Terranova Enterprises sought reinstatement. At all times mentioned herein, respondent Terranova Enterprises was operating as an exhibitor, as that term is defined in the Act and the Regulations, and held Animal Welfare Act license number 74-C-0199.

2. Respondent Douglas Keith Terranova ("Doug Terranova") is an individual whose mailing address is 6962 S. FM 148, Kaufman, Texas 75142. Said respondent is the President, registered agent, and a director of respondent Terranova Enterprises. At all times mentioned herein, respondent Doug Terranova was (1) operating as an exhibitor, as that term is defined in the Act and the Regulations, and/or (2) acting for or employed by an exhibitor or exhibitors (respondent Terranova Enterprises), and his acts, omissions or failures within the scope of his employment or office are, pursuant to section 2139 of the Act (7 U.S.C. § 2139), deemed to be his own acts, omissions, or failures, as well as the acts, omissions, or failures of respondent Terranova Enterprises.

3. Respondent Will Ann Terranova is an individual whose mailing address is 6962 S. FM 148, Kaufman, Texas 75142. Said respondent is the secretary, treasurer, and a director of respondent Terranova Enterprises. At all times mentioned herein, respondent Will Ann Terranova was (1) operating as an exhibitor, as that term is defined in the Act and the Regulations, and/or (2) acting for or employed by an exhibitor (respondents Doug Terranova

and/or Terranova Enterprises), and her acts, omissions or failures within the scope of her employment or office are, pursuant to section 2139 of the Act (7 U.S.C. § 2139), deemed to be her own acts, omissions, or failures, as well as the acts, omissions, or failures of respondents Doug Terranova and/or Terranova Enterprises.

4. Respondent Farin Fleming is an individual whose mailing address is 6962 S. FM 148, Kaufman, Texas 75142. Said respondent is a director of respondent Terranova Enterprises. At all times mentioned herein, respondent Fleming was (1) operating as an exhibitor, as that term is defined in the Act and the Regulations, and/or (2) acting for or employed by an exhibitor (respondents Doug Terranova and/or Terranova Enterprises), and her acts, omissions or failures within the scope of her employment or office are, pursuant to section 2139 of the Act (7 U.S.C. § 2139), deemed to be her own acts, omissions, or failures, as well as the acts, omissions, or failures of respondents Doug Terranova and/or Terranova Enterprises.

ALLEGATIONS REGARDING THE SIZE OF RESPONDENTS' BUSINESSES,
THE GRAVITY OF THE ALLEGED VIOLATIONS, AND
RESPONDENTS' GOOD FAITH AND COMPLIANCE HISTORY

5. Respondents Terranova Enterprises, Doug Terranova, Will Ann Terranova and Farin Fleming (jointly referred to as the "Terranova Respondents") operate a moderately-sized animal exhibition business, and on December 12, 2008, respondent Terranova Enterprises reported to complainant that it held 20 animals. Said respondents exhibit wild and exotic animals to the public at traveling locations, and during 2008, have leased animals

to circuses for use in exhibition. The gravity of the violations alleged in this complaint is great, involving an instance at a fairgrounds in Enid, Oklahoma, wherein respondents failed to handle an elephant (Kamba) as carefully as possible and in accordance with the Regulations, resulting in the elephant's escaping from respondents' custody rather than entering the circus performance arena, traveling a significant distance on Highway 81, where the elephant was struck and injured by an oncoming sports utility vehicle.

6. Respondents herein are also respondents in AWA Docket No. 09-0115, pending before the Secretary of Agriculture.

ALLEGED VIOLATIONS

7. On November 4, 2009, at the Family Fun Circus, in Enid, Oklahoma, the Terranova Respondents failed to handle animals (specifically, the elephant Kamba) as carefully as possible in a manner that does not cause trauma, behavioral stress, physical harm, or unnecessary discomfort, and specifically, respondents placed the elephant in a dark passageway outside a circus performance tent prior to the elephant's scheduled performance, behind another elephant (Congo), and without any perimeter fence or other barrier between the elephants and adjacent Highway 81, or means other than respondent Doug Terranova and one of his associates to contain the elephants, whereupon Kamba left the fairgrounds, ran a significant distance along Highway 81, was hit by an oncoming sports utility vehicle (a 2004 Chevrolet Trail Blazer), and sustained injuries (including a broken tusk, a fractured carpal bone, multiple skin abrasions and a bruised trunk), all in willful violation of section

2.131(b)(1) of the Regulations. 9 C.F.R. § 2.131(b)(1).

8. On November 4, 2009, at the Family Fun Circus, in Enid, Oklahoma, the Terranova Respondents failed to handle animals (specifically, the elephant Kamba), during public exhibition so there was minimal risk of harm to the animals and to the public, with sufficient distance and/or barriers between the animals and the general viewing public so as to assure the safety of animals and the public, in willful violation of section 2.131(c)(1) of the Regulations. 9 C.F.R. § 2.131(c)(1).

9. On November 4, 2009, at the Family Fun Circus, in Enid, Oklahoma, the Terranova Respondents failed to exhibit animals (specifically, the elephant Kamba), only under conditions consistent with their good health and well-being, and specifically, respondents placed Kamba at the entrance of the performance tent, in an area with insufficient light, behind another elephant, and with no means to restrain or contain the elephant, in willful violation of section 2.131(d)(1) of the Regulations. 9 C.F.R. § 2.131(d)(1).

10. On November 4, 2009, the Terranova Respondents willfully violated section 2.100(a) of the Regulations by failing to meet the Standards, and specifically, at the Family Fun Circus, in Enid, Oklahoma, said respondents failed to enclose outdoor housing facilities for elephants by an adequate perimeter fence, in accordance with section 3.127(d) of the Regulations. 9 C.F.R. § 3.127(d).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the

respondents have in fact willfully violated the Act and the regulations issued under the Act, this complaint shall be served upon the respondents. The respondents shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

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The Animal and Plant Health Inspection Service requests that unless the respondents fail to file an answer within the time allowed therefor, or file an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and that such order or orders be issued as are authorized by the Act and warranted under the circumstances, including an order that respondents cease and desist from violating the Act and the regulations and standards issued thereunder, assessing civil penalties against respondents in accordance with section 19 of the Act (7 U.S.C. § 2149), and suspending or revoking AWA license 74-C-0199.

Done at Washington, D.C.
this 31st day of August 2010

Acting Kevin Shea
Administrator
Animal and Plant Health Inspection Service

COLLEEN A. CARROLL
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